

UNITED STATES SENATOR • IOWA

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Floor Statement of Senator Chuck Grassley, of Iowa
Patients' Rights Legislation and Liability
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Mr. President, I rise today to support the Bond amendment. It takes the right approach to fixing the Kennedy-McCain bill's liability provisions, which amount to nothing less than a trial lawyer's pot of gold.

I have always believed medical malpractice liability laws should provide adequate compensation for those who are truly injured while reducing frivolous lawsuits. Kennedy-McCain fails to strike this balance and instead creates a "lottery" for trial lawyers, that not only inflates the cost of health insurance for us all, but also leads to more and more hard-working Americans losing their health coverage.

Here's how: Except for a \$5 million cap on punitive damages in federal court, the Kennedy-McCain bill sets no limits on what damages trial lawyers can collect. Considering that trial lawyers generally collect 40 percent of their clients' recoveries - incentives for bringing cases, regardless of merit, are extremely high. But the real jewel in the trial lawyer's crown is the bill's provision that allows the same suits, for the same claims, brought by the same trial lawyers to proceed in state as well federal courts.

Mr. President, even though this debate is supposed to be about patients, the Kennedy-McCain liability scheme isn't about patients at all, its about trial lawyers. In fact, its really a Trial Lawyers' Lottery Ticket, where five out of the six opportunities for monetary awards are virtual jackpots for lawyers.

Let's take a closer look. Let's just scratch the ticket here and see what he can get. Bingo! No limits on what a trial lawyer can collect, in both state and federal court – now that's a jackpot that would make any lawyer happy.

But why quit when you're ahead? Let's see what's in store there. Another jackpot! Unlimited damages in state and federal courts again – the sky's the limit! Now the trial lawyers are really winning big.

Now, for trial lawyers favorite damages - punitive damages - where they stand to reap tens of millions - let's see what this ticket offers. Another big win! Talk about good luck! Unlimited punitive damages are available in state courts, and in federal courts, there's a \$5 million "cap." And

if you ask me, that's hardly a limit at all.

Finally, let's not forget about class actions – where multi-million dollar damages are the name of the game. Bingo again! Kennedy-McCain has no limits on class action cases. It even creates new grounds for bringing class action cases that don't currently exist.

As you can see, the Kennedy-McCain liability lottery is about tribute for trial lawyers, not treatment for patients. It seems ironic that the very individuals this bill claims to protect are the ones who lose the most. Despite what its sponsors say, Kennedy-McCain exposes employers to the constant threat of litigation, even for simple administrative tasks or clerical errors. The ultimate result, employers drop coverage altogether, the ranks of the uninsured increase, and it's the employee who becomes the biggest loser in this lottery.

And so I urge my colleagues to reject this lottery and to support the Bond amendment, which creates much-needed patient minimums and ensures that patients – not lawyers – get fair compensation for their losses.